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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
07 NOV 27 AM 10:06

UNITED STATES OF AMERICA,

Plaintiff,

v.

PRIETO-Mendiola, Marcos,

- Defendant.

Magistrate Case No.

07 NOV 27 AM 10:06
07 NOV 27 55

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326;
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

On or about **April 29, 2007**, within the Southern District of California, defendant, **Marcos PRIETO-Mendiola**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

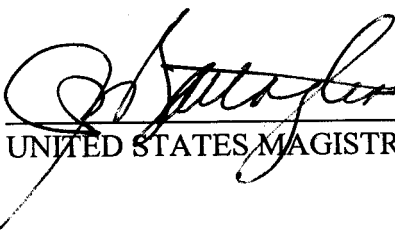
And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Blake R. Bellamy

SIGNATURE OF COMPLAINANT

Blake R. Bellamy, Immigration &
Customs Enforcement, Deportation Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **27th** DAY OF **November, 2007**.



UNITED STATES MAGISTRATE JUDGE

FAS

CONTINUATION OF COMPLAINT:**NAME: PRIETO-Mendiola, Marcos****PROBABLE CAUSE STATEMENT**

As part of the assigned duties of the Detention and Removal Office, Deportation Officers review various sources in order to locate and identify incarcerated aliens that have been previously removed from the United States. This is done in order to determine if subjects have returned to the United States in violation of Title 8, United States Code, Section 1326.

On or about April 29, 2007, at approximately 4:37 p.m., Officer P. Biffle (ID 976) of the Chula Vista Police Department arrested the defendant identified as Marcos PRIETO-Mendiola for violation of 11350(A) HS – POSSESSION OF NARCOTIC CONTROLLED SUBSTANCE, 529 (PC – FALSE PERSONATION OF ANOTHER, and 4140 (BP – POSSESSION OF HYPODERMIC NEEDLE/SYRINGE). Subsequently, the defendant's parole from a prior offense was violated, and he was remanded to the custody of the California Department of Corrections. On or about October 10, 2007, Immigration Enforcement Agent Jose Barrios Jr. conducted a prison interview, determined the defendant to be a citizen of Mexico, and placed an immigration detainer pending his release.

On Monday, November 26, 2007, at approximately 9:45 a.m., the defendant was referred to United States Immigration and Customs Enforcement custody. Deportation Officer Blake R. Bellamy conducted official record checks in regards to the defendant, confirming his status as a citizen and national of Mexico who had been previously deported from the United States.

A thorough review of official immigration computer database record checks and information contained in the Alien Registration file revealed that the defendant was ordered removed from the United States on September 26, 2006, by an Immigration Judge in Lancaster, California. Subsequent to that order of removal, the defendant was physically removed to Mexico via the San Ysidro, California, Port-of-Entry, on September 28, 2006. Record checks further revealed that the defendant has been removed from the United States to Mexico on at least six additional occasions. Record checks also indicate that the defendant has not applied to the Attorney General of the United States or the Secretary of the Department of Homeland Security for permission to re-enter the United States.

The defendant's fingerprints were compared to those contained in the Automated Biometric Fingerprint Identification System (IDENT) and Automated Fingerprint Identification System (IAFIS). The results confirmed the defendant's identity as Marcos PRIETO-Mendiola, a citizen and national of Mexico. A photograph and a set of fingerprints contained within the official Alien Registration File were also reviewed and compared to the defendant, further confirming his identity.

At approximately 11:09 a.m., the defendant was admonished as to his rights per "MIRANDA" in the English language by Deportation Officer Blake R. Bellamy, as witnessed by Immigration Enforcement Agent Randy A. Callahan. The defendant acknowledged his rights per "MIRANDA" and elected to answer questions without counsel present. The defendant acknowledged that he is a citizen of Mexico having no legal right to enter, pass through, or remain in the United States. The defendant admitted that he affected his most recent successful entry into the United States from Mexico in December of 2006 by making an oral false claim to United States citizenship at the San Ysidro, California, Port of Entry. The defendant further acknowledged that he was removed from the United States to Mexico on several occasions and he has not obtained a waiver in order to re-enter.

Based upon the foregoing information, there is probable cause to believe that Marcos PRIETO-Mendiola has illegally re-entered the United States after Deportation, in violation of Title 8 of the United States Code, Section 1326, "Deported Alien Found in the United States."